



Atty. Dkt. No. 040283-0211

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David Reginald ADAMS, et al.

Title: PIRAZINO(AZA)INDOLE
DERIVATIVES

Appl. No.: 10/685,799

Filing Date: 10/16/2003

Examiner: Balasubramanian, Venkataraman

Art Unit: 1624

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed August 4, 2005, Applicants hereby provisionally elect with traverse Group VIII, wherein all of X₁ to X₄ are C-R. For the election of species requirement, applicants elect the first compound of claim 18. Claims 1-18 read on the elected species.

Applicants traverse the restriction requirement on the grounds that there is no undue burden to search all of the claims. The subject matter of the claims has common utility and substantial structural identity and therefore form a proper Markush group. Here, there is common utility, as shown by the fact that compounds all are disclosed as 5-H₂ receptor ligands (specification, page 3, lines 10-16), further attesting to the proper Markush group for all of the compounds and their method of use. The only core structural difference is the number and location in an aromatic ring of N atoms and CR groups. It is apparent that such structural differences do not negate the general utility and, *a fortiori*, do not negate the Markush group of the present invention. Therefore, it is respectfully urged that the restriction requirement be withdrawn.

Applicants submit that, at the very least, non-elected Group VII should be examined with elected Group VIII. Group VII differs from Group VIII by only a single nitrogen atom in the ring. The exemplified compounds in the present application are all either in Group VIII (12 examples) or Group VII (1 example).

Applicants, of course, reserve the right rejoin the non-elected claims if an elected general linking claim is allowed.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicants hereby petition for any needed extension of time.

Respectfully submitted,

Date October 3, 2005

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By  _____

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